

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6749

BILL NUMBER: SB 350

NOTE PREPARED: Feb 24, 2009

BILL AMENDED:

SUBJECT: Removal by Deceit.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR: Rep. L. Lawson

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes criminal confinement committed against a person who is mentally disabled a Class C felony.

It provides that a person who, by means of deceit, removes a person who is less than 14 years of age or who is mentally disabled from one location to another commits removal by deceit, a Class C felony. (The current law concerning criminal removal by fraud or enticement has been declared unconstitutional by the Indiana Court of Appeals.)

The bill also specifies that "identifying information" for purposes of identity deception includes identifying information that identifies a person. (Current law includes only identifying information that identifies an individual.)

Effective Date: July 1, 2009.

Explanation of State Expenditures: There are no data available to indicate how many people may be convicted for criminal confinement against a person who is mentally disabled, a Class C felony, or removal by deceit, a Class C felony. Also, there are no data available to indicate how many offenders may be convicted of the enhanced penalty for removal by deceit, a Class B felony if the act is committed while armed with a deadly weapon, results in bodily injury, or is committed on an aircraft.

A Class C felony is punishable by a prison term ranging from 2 to 8 years, depending upon mitigating and aggravating circumstances, and a Class B felony is punishable by a prison term ranging from 6 to 20 years, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult

offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years, and for all Class B felony offenders is approximately 3.7 years.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B or Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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